

DEPARTMENT OF THE NAVY  
FLEET READINESS CENTER EAST  
PSC BOX 8021  
CHERRY POINT, NC 28533-0021

5720  
11.6-AFG/009532  
26 March 2019

**VIA ELECTRONIC MAIL:**

Mr. Kurt D. Schmidt  
Schmidt Law  
2505 B. Nash Street  
Wilson, NC 27896  
e-mail: kurt@schmidtlawnc.com

Subj: RESPONSE TO AND REFERRAL OF FREEDOM OF INFORMATION ACT  
REQUEST DON-NAVY-2018-009532

Ref: (a) Your Request of 16 Jul 17  
(b) FRC East FOIA Coordinator E-mail Memo of 20 Feb 19  
(c) PHONCON btwn A. Gaskins (Code 11.6)/K. Schmidt (Schmidt Law) of 20 Feb 19  
(d) Your E-mail Memo Regarding Fees and Description of Records 20 Feb 19  
(e) FRC East FOIA Coordinator ltr 11.6-AFG/009532 of 22 Feb 19  
(f) Your Written Verification of Description of Records 23 Feb 19  
(g) 32 C.F.R. § 286  
(h) 5 U.S.C. § 552  
(i) SECNAVINST 5720.42F

Dear Mr. Schmidt:

1. This letter is in response to reference (a), in which you seek the release of Fleet Readiness Center East (FRC East) records pertaining to an investigation of Mr. John A. Wilson's injury occurring on 23 June 2017 at the Fleet Readiness Center East (FRC East).
2. Per reference (b), this office notified you that we received your request on 9 January 2019, sought your desire regarding continued processing of the request, and advised you that additional information was required regarding fees and the description of the requested records. Per references (c) and (d), we discussed your request and you provided written verification that you wished to continue processing the request, you were willing to pay fees associated with processing the request, and additional information.

a. Reference (d) also perfected your request and provided a revised description of the records to specifically seek records as described below:

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"We are looking [sic] any and [sic] information to include but not limited to investigative reports, witness statements, pictures and diagrams involving an incident on 6/23/2017 at approximately 2340 hours at the F35 Paint Hangar at FRC East at Cherry Point, North Carolina, where a civilian contractor placed a trailer to work on a refit of that Paint Trailer. It is our understanding that this incident was investigated by Fleet Readiness Command East Safety Department. Jerry Stearns was the second shift supervisor."

b. On 22 February 2019, based on references (a) through (d), this office officially acknowledged your request via reference (e) and requested your verification of the Agency's interpretation of the revised description.

"Any and all information, including but not limited to, investigative reports, witness statements, pictures and diagrams, related to an FRC East Safety Department investigation arising from an injury sustained by Mr. John A. Wilson on 23 June 2017, at approximately 2340 hours in the F-35 Paint Hangar at FRC East, which was possibly caused by the placement of a cart or equipment by a contractor working on a refit of that paint hanger. At the time of the accident, Jerry Stearns was the second shift shop supervisor."

c. Per reference (f), on 23 February 2019 you verified in writing that the Agency's interpretation of your revised description of the requested documents was accurate.

3. In response to your request, a record consisting of seven pages was determined to be responsive. After review, it has been determined that seven pages are appropriate for release and are provided as enclosure (1). However, all of the pages of enclosure (1) have been reviewed and redacted consistent with exemptions 5 U.S.C. § 552 (b)(6), which protects information that, if disclosed, would result in a clearly unwarranted invasion of personal privacy, as releases made under the FOIA is a release to the general public at large and 5 U.S.C. § 552 (b)(5), which protects information that is deliberative in nature and part of a decision making process.

4. Based on a review of your request, it has been determined that FRC East is not the cognizant release authority for some of the requested records; therefore, your request is referred, in part, to the Naval Safety Center as a matter under their cognizance. Their address is as follows:

NAVAL SAFETY CENTER  
375 A STREET  
NORFOLK, VA 23511  
EMAIL: safe-foia@navy.mil  
TELEPHONE: 757-444-3520, extension 7047

The Naval Safety Center will respond directly to you regarding the release of the requested records that are under their cognizance.

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5. In accordance with references (g) through (i), because portions of the records have been withheld, you may consider this to be an adverse determination that may be appealed. If you have created an account in FOIAonline, you may submit your appeal directly within the web-based system by logging into your account and clicking the "Create Appeal" tab in the left-hand column. If you do not have a FOIAonline account, you may send an appeal by regular mail to the Department of the Navy, Office of the General Counsel (ATTN: FOIA APPEALS), 1000 Navy Pentagon, Room 5A532, Washington, DC 20350-1000. Your appeal, if any, must be postmarked within 90 calendar days from the date of this letter and should include a copy of your request, a copy of this letter, and a statement indicating why you believe your appeal should be granted. It is recommended that your appeal and its envelope bear the notation "Freedom of Information Act Appeal."

6. For any further assistance and to discuss any aspect of your request, you have the right to contact the Department of the Navy FOIA Public Liaison, Mr. Christopher Julka, at Christopher.A.Julka@navy.mil or via telephone at 703-697-0031. Additionally, you have the right to contact the Office of Government Information Services (OGIS) to inquire about the FOIA mediation services they offer. You may obtain information or submit your request for mediation services to OGIS at Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-01. You may also contact OGIS via e-mail at ogis@nara.gov, telephone at 202-741-5770 (toll free at 1-877-684-6448) or facsimile at 202-741-5769.

7. Consistent with the provisions of references (h) and (i), the Agency is authorized to charge assessable fees, where applicable. In your case, you were advised by reference (e) that you are entitled to up to two free hours of search time and one hundred pages of records without incurring search or duplication charges. However, both search time and duplication costs were within the free entitlements, and you are not assessed any fees at this time.

8. You are advised that, in accordance with reference (h), the agency is required to make copies of all records released to any person under the FOIA available for public inspection and copying. This includes records the agency determines are, or are likely to become, the subject of subsequent requests for substantially the same records.

9. If you have any questions regarding this matter, you may contact this office via telephone at (252) 464-8336 or by e-mail at angel.gaskins@navy.mil or CP\_LEGAL.gm.fct@navy.mil.



JENNIFER B. TOLER

Copy to: Naval Safety Center FOIA Coordinator

Encl: (1) FRC East ESAMS Incident Information Print Out



## 1 - INCIDENT INFORMATION

Incident ID:

172570

Incident Date /  
Time:\* 6/23/2017  \* 23:45 Did the incident  
occur on base?\* ☒ Yes ☐ NoInstallation of  
Incident:

\* MCAS Cherry Point, NC

Bldg (In or Near):

4034

Narrative:

Employee tripped over a permanently installed electrical conduit anchored on the walking surface (GROUND) between buildings supplying electricity to a contractors trailer causing (b)(6)

\* (b)(6)

(b)(6) Employee did not seek immediate medical attention due to van pool being (b)(6) only transportation home.

†(What, when, where and how) NOTE: Do NOT include personal identifiers, such as name.

Location of  
Incident:

\* B4034 91109 / 93111 A-7

†(Precisely state where incident occurred)

GPS Coordinates (LAT):

Example: N35° 55' 18.247

	▼
	°deg
	min
	sec

GPS Coordinates (LNG):

Example: E35° 55' 59.123

	▼
	°deg
	min
	sec
	Alt ft

Was a Government  
Motor Vehicle  
Involved?

\* ☐ Yes ☒ No

How many people  
were involved?

\* 1

Job Order or  
Project ID:  
(optional)

INDUSTRI. Area: A Site: 7

## 2 - INCIDENT TYPE

Incident Type Description  
Check all that Apply: \*

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> Assault/Violent Act        | <input type="checkbox"/> Explosion, Non-Ordnance                         | <input type="checkbox"/> Material Handling Equipment      |
| <input type="checkbox"/> Aviation                   | <input type="checkbox"/> Extreme Environmental Exposure                  | <input type="checkbox"/> Occupational (Non-Industrial)    |
| <input type="checkbox"/> Boating (Non-Recreational) | <input checked="" type="checkbox"/> Fall, slip, trip, or bodily exertion | <input type="checkbox"/> Ordnance Related (Non-Explosive) |
| <input type="checkbox"/> Cargo Air Drop             | <input type="checkbox"/> Fires - All Types                               | <input type="checkbox"/> Ordnance-Related (Explosive)     |
| <input type="checkbox"/> Cargo Handling             | <input type="checkbox"/> Flooding (Afloat only)                          | <input type="checkbox"/> Other                            |
| <input type="checkbox"/> Collision (Afloat Only)    | <input type="checkbox"/> Grounding (Afloat Only)                         | <input type="checkbox"/> Parachuting                      |

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Collision with Craft                  | <input type="checkbox"/> Hazardous Material (any type)               | <input type="checkbox"/> PRT/PT/PFT/PFA Related                 |
| <input type="checkbox"/> Combat Zone (Not Direct Enemy Action) | <input type="checkbox"/> Heavy Weather                               | <input type="checkbox"/> Recreation                             |
| <input type="checkbox"/> Contact with object/equipment         | <input type="checkbox"/> Helicopter Rope Suspension Technique (HRST) | <input type="checkbox"/> Recreational Event - Command sponsored |
| <input type="checkbox"/> Deck Seamanship                       | <input checked="" type="checkbox"/> Industrial                       | <input type="checkbox"/> Ship Control/Navigation                |
| <input type="checkbox"/> Diving                                | <input type="checkbox"/> Insertion/Extraction/Climbing (IEC)         | <input type="checkbox"/> Training                               |
| <input type="checkbox"/> Electrical Shock/Burns                | <input type="checkbox"/> Lost/Missing at Sea                         | <input type="checkbox"/> Vehicle (Government or Private)        |
| <input type="checkbox"/> Equipment Installation/Repair         | <input type="checkbox"/> Man over the side (No water entry)          | <input type="checkbox"/> Water Aspiration                       |
| <input type="checkbox"/> Equipment Operation (Non-Industrial)  | <input type="checkbox"/> Man Overboard - Water Entry                 | <input type="checkbox"/> Weapon/Explosives                      |

## 3 - INCIDENT FACTORS

Was training a factor in this incident?

\* ☐ Yes ☒ No

Was PPE use or lack of use a factor?

\* ☐ Yes ☒ No

Were chemical(s) a factor?:

\* ☐ Yes ☒ No

List any other factors that may

have contributed to the incident:

Small 8.5 X 11 caution sign was posted on post in only one direction of travel, thus being insufficient caution signage in employees direction of travel and due to low / no lighting present and condition of caution sign unable (attitude, fatigue, equipment malfunction, weather, ventilation, lighting, etc)

#### 4 - COMMENTS AND ACTIONS

Action(s) taken to prevent recurrence:

\* (b)(5)

#### Additional Incident Comments to assist the Safety Office investigation

Comment	Date Added	Added By
Behind building 4034 (Training Building) between Contractors Trailer and 4034.	6/26/2017 6:36:47 AM	(b)(6) FRC EAST (CP, NC) (CIV)
(b)(5)	6/24/2017	(b)(6)
(b)(5)	3:05:23 AM	(b)(6)
(b)(5)		FRC EAST (CP, NC) (CIV)

Select additional supervisors that need access to this incident. The submitting supervisor and/or the employee's supervisor already have access.

Note: Each supervisor added will receive an email notification and be able to view incident.

(b)(6)

(b)(6)

(b)(6)

(b)(6)

(b)(6)

(deactivated)

(b)(6)

(b)(6)

[illegible]

## Name:

(b)(6)

FRC EAST (CP, NC) (CIV) / N65923

621500J - AIRCRAFT MACHINISTS BRANCH

MCAS Cherry Point, NC(4000700)

(b)(6)

### For Administrative Purposes Only

**Was Visibility Restricted?**

\* ☐ Yes ☒ No



Lighting  
conditions:

\* ☐ Adequate ☒ Inadequate ☐ Unknown

Was noise level a  
factor?

\* ☐ Yes ☒ No ☐ Unknown

Was carbon  
monoxide (CO) a  
factor?

\* ☐ Yes ☒ No

Other Factors:

General Location  
Description:

\* OPERATIONAL/INDUSTRIAL BUILDING/PLANT OTH

Incident Occurred  
During DOD  
Operation?

\* ☐ Yes ☒ No

Did the Incident  
occur during  
Formal Training?

\* ☐ Yes ☒ No

Primary Cause  
Code:

\* INSTALLATION DEFECT

Secondary Cause  
Code:

Third Cause Code:

#### PREVENTION & LESSONS LEARNED

##### Investigation Comments:

(Note: Additional comments may be appended when Incident is locked)

Comment	Date Added	Added By
7/19/2017 PLG, Per supervisor, employee has not yet returned to work.	7/19/2017 7:43:55 AM	(b)(6) FRC EAST (CP, NC) (CIV)

Employee has not returned to work as of  
7/10/2017.

7/10/2017  
2:42:59 PM

(b)(6)

FRC EAST  
(CP, NC)  
(CIV)

Add Comment

Need to  
Create/Review:

☐ Job Hazard Analysis

**Lessons Learned:**

*(Note: Additional lessons may be appended when Incident is locked)*

**Lesson Learned**

**Date Added**

**Added By**

Add Lesson Learned

**For Official Use Only - This is an unclassified system. Do not enter classified data.**

**Privacy Act Statement**

- Authority: 5 U.S.C. 301, Departmental Regulations and E.O. 9397
- Principle Purpose: To ensure prompt investigation of occupational injuries, and to initiate any necessary immediate corrective action.
- Routine Use: Routinely used by the activity Occupational Safety and Health Office to perform official duties in the investigation of mishaps which may have caused occupational injury or illness.
- Disclosure: Voluntary. Treatment will be provided without regard to employee's willingness to divulge all or part of the requested information.